

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

Intersections Inc. and Net Enforcers, Inc.,

Plaintiffs,

v.

Joseph C. Loomis and Jenni M. Loomis,

Defendants.

Civil Action No. 1:09CV597 (LMB/TCB)

**DECLARATION OF JONATHAN D. FRIEDEN AS TO REASONABLENESS  
OF ATTORNEYS' FEES AND COSTS INCURRED BY  
INTERSECTIONS INC. AND NET ENFORCERS, INC.**

1. I am a principal in the law firm of Odin Feldman Pittleman PC, and have been engaged in the practice of law since October 1997 and in this District specifically since 1998. I received my Bachelor of Science degree from the University of Virginia in 1994 and my Juris Doctor degree from the T.C. Williams School of Law, University of Richmond in 1997. I have represented corporations, partnerships, and individuals in complex commercial litigation before many state and federal courts, including more than 50 matters in this court. My relevant experience includes *Rosetta Stone, Ltd. v. Google, Inc.*, Case No. 1:09-CV-736, 2010 WL 3063152 (Aug. 3, 2010); *Nemet Chevrolet Ltd. v. ConsumerAffairs.com, Inc.*, Case No. 1:08-CV-254, 564 F. Supp. 2d 544 (E.D. Va. 2008), affirmed, 591 F.3d 250 (4th Cir. 2009); *Jupiterimages Corp. v. Hamilton*, Case No. 1:06-CV-310; and *DIRECTV, Inc. v. VMC Satellite, Inc.*, 1:03-CV-1404.

2. I am familiar with the rates customarily charged by attorneys in this District with comparable skill, experience, and reputation to counsel for Intersections Inc. and Net Enforcers, Inc. ("Plaintiffs") for similar services in similar lawsuits and actually allowed by courts for

similar services in similar lawsuits for attorneys with comparable skill, experience, and reputation. I have been asked to prepare this Declaration to opine as to the reasonableness of the hourly rates and time expended in connection with the October 23, 2009 Motions to Compel Discovery and for Protective Order and Sanctions [Docket Nos. 37 and 40] and the November 24, 2009 Motion for Sanctions [Docket No. 50], based on my experience and knowledge of the prevailing range of market rates in this District by lawyers of comparable skill, experience and reputation for similar services in similar lawsuits.

3. In preparing this Declaration, I reviewed, *inter alia*, the Declarations of Tara Lee [Docket Nos. 49 and 219] and the motions papers and related file materials in this action related to Judge Buchanan's October 30, 2009 [Docket No. 47] and December 4, 2009 [Docket No. 74] Orders directing Plaintiffs to file statements of attorneys' fees and costs. I have also reviewed the experience level of the attorneys representing the Plaintiffs in this action and reported information concerning the hourly rates of other law firms practicing before this Court.

4. In making my assessment of reasonableness, I have considered the twelve factors identified in *Johnson v. Georgia Highway Express, Inc.*, 488 F. 2d 714 (5th Cir. 1974), including, but not limited to (1) the time and labor required; (2) the novelty and difficulty of the questions and issues; (3) the skill required to properly perform the legal service; (4) the preclusion of other employment due to acceptance of the case; (5) the customary fee; (6) the experience and ability of the attorneys; and (7) the nature and length of the professional relationship with the client, as they relate to the reasonable hourly rate to be awarded in this matter.

5. I have considered the reasonableness of the hours expended by the Plaintiffs' counsel. In my opinion, the Plaintiffs' counsel has used "billing judgment", in that the hours

requested could be reasonably billed to the client. *See Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). Therefore, it is my opinion that the time expended by counsel to pursue the October 23, 2009 Motions to Compel Discovery and for Protective Order and Sanctions [Docket Nos. 37 and 40] and the November 24, 2009 Motion for Sanctions [Docket No. 50] is reasonable.

6. I have also considered the reasonableness of the hourly rates charged by the Plaintiffs' counsel. Though applying this Court's traditional analysis of hourly rates might suggest that a lower rate would be more appropriate for each of the attorneys who worked on the October 23, 2009 Motions to Compel Discovery and for Protective Order and Sanctions [Docket Nos. 37 and 40] and the November 24, 2009 Motion for Sanctions [Docket No. 50], I am cognizant of the Court's direction that "the Johnson / Barber factors are not fully applicable to this award." [Docket No. 81]. In my opinion the effective hourly rates<sup>1</sup> charged by each attorney who worked on the October 23, 2009 Motions to Compel Discovery and for Protective Order and Sanctions [Docket Nos. 37 and 40] and the November 24, 2009 Motion for Sanctions [Docket No. 50] are consistent with the hourly rates charged by similar law firms for similar work in this Court and could be reasonably billed to the client.

7. In my opinion, the amount of \$90,194.95 itemized in the Declarations of Tara Lee [Docket Nos. 49 and 219] represents an amount which could be fairly charged to the client in connection with the October 23, 2009 Motions to Compel Discovery and for Protective Order and Sanctions [Docket Nos. 37 and 40] and the November 24, 2009 Motion for Sanctions [Docket No. 50].

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<sup>1</sup> Here, the client was afforded a 10% discount to all legal fees expended in this matter. Thus, the effective hourly rate for each attorney is 10% less than the rate referenced in the Declarations of Tara Lee [Docket Nos. 49 and 219].

DATE: 1/18/2011

  
Jonathan D. Frieden

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 10th day of February, 2011, I caused the foregoing Declaration of Jonathan D. Frieden as to Reasonableness of Attorneys' Fees and Costs Incurred by Intersections Inc. and Net Enforcers, Inc., to be electronically filed with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Timothy J. McEvoy, Esq.  
Cameron McEvoy, PLLC  
11325 Random Hills Road  
Suite 200  
Fairfax, VA 22030  
(703) 273-8898  
Email: tmcevoy@cameronmcevoy.com

*Counsel for Defendant Joseph C. Loomis*

Eugene W. PolICASTRI, Esq.  
Bromberg Rosenthal LLP  
401 N. Washington St., Suite 500  
Rockville, MD 20850  
(301) 251-6200  
Email: ewpolicastri@brsglaw.com

*Counsel for Defendant Jenni M. Loomis*

/s/  
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Tara Lee  
Virginia Bar No. 71594  
Attorney for Plaintiffs  
DLA PIPER LLP (US)  
1775 Wiehle Avenue, Suite 400  
Reston, Virginia 20190-5159  
Phone: (703) 773-4150  
Facsimile: (703) 773-5000  
tara.lee@dlapiper.com